

REMARKS:

Reconsideration of the rejections set forth in the Final Office Action mailed January 23, 2009 and entry of the present amendment is requested because Applicants respectfully submit that the present Amendment places the application in condition for allowance or in better form for consideration on appeal.

In response to the Final Office Action, claims 92, 107, 181, 182, 192, 200, and 203 have been amended. Therefore, claims 92, 95-99, 101, 105-110, 113, 114, 149, 150, 152, 154-158, and 181-203 remain pending in the application with claims 187, 189, 196, and 198 withdrawn as directed to nonelected species.

The current amendments are fully supported by the original disclosure as filed, as identified in Applicants' previous response, e.g., paragraphs [0061], [0111]-[0118], [0127], [0156], and [0160] of the specification, and in FIGS. 12-15. No new matter has been introduced.

In the Final Office Action, claim 192 was objected to, and claim 200 was rejected under 35 U.S.C. § 112, second paragraph, as indefinite. In addition, claims 92, 95, 97-99, 101, 107, 108, 113, 114, 149-152, and 155-158 were rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 7,182,725 ("the Bonan et al. reference"). Finally, claims 105, 106, 109, 110, 188, and 190 were rejected under 35 U.S.C. § 103(a) as unpatentable over the Bonan et al. reference. Because the cited reference fails to disclose, teach, or suggest the subject matter of the present claims, the rejections should be withdrawn.

As an initial matter, Applicants appreciate the Examiner's indication that claims 191-195, 197, and 199-202 are allowed.

Turning to the § 112, second paragraph, rejection, claim 200 has been amended to recite that the tubular member **and support member** comprise a co-extrusion. This amendment is supported by the original disclosure, e.g., in paragraph [0116]. As amended, Applicants submit that claim 200 should now be definite. Therefore, the § 112, second paragraph, rejection should be withdrawn.

With respect to the objection to claim 192, Applicants have amended claim 192 to correct the typographical error, as suggested by the Examiner. Claim 182 has also been amended to correct a similar typographical error.

Finally, turning to the rejections based on the Bonan et al. reference, Applicants have amended independent claims 92, 107, 149, 181, and 203 to include limitations similar to those recited in allowed claim 191.

For example, claim 92 has been amended to recite a support member extending along a target therapy portion of the tubular member and **substantially fixed along the length of the target therapy portion** such that the support member is adjacent the one or more radiation sources when the one or more radiation sources are disposed within the target therapy portion, the support member **having a cross-section defining a width extending transversely relative to the first lumen and a height orthogonal to the width, the height being smaller than the width, wherein the support member biases** the target therapy portion for advancement through tissue in a straight configuration and allow deployment to a curved configuration within the breast for delivery of radiation to the target tissue region.

Similarly, claim 107 has been amended to recite a support member extending along a therapy delivery portion of the tubular member outside the first lumen, the support member

substantially fixed along the therapy delivery portion and *having a cross-section defining a width extending transversely relative to the first lumen and a height orthogonal to the width, the height being smaller than the width*, the support member offset from the first lumen such that the therapy delivery portion is advanceable through tissue in a straight configuration and deployable to a curved configuration within the breast for delivery of radiation to the target tissue region, wherein *the support member biases the target therapy portion for introduction through tissue in a straight configuration and deployment in the curved configuration within or around the target tissue region.*

Claim 149 has also been amended to recite that the strip of material is *substantially fixed along the therapy delivery portion and having a cross-section defining a width extending transversely relative to the first lumen and a height orthogonal to the width, the height being smaller than the width*; and that the support member *biases the tubular member for introduction through tissue in a straight configuration and deployment in a curved configuration within or around the target tissue region.*

Claim 181 has also been amended to recite a support member extending along a therapy delivery portion between the proximal and distal ends of the tubular member outside the first lumen, the support member substantially fixed along the therapy delivery portion and *having a cross-section defining a width extending transversely relative to the first lumen and a height orthogonal to the width, the height being smaller than the width*, wherein the support member *biases the tubular member for introduction through tissue in a straight configuration and deployment in a curved configuration within or around the target tissue region.*

Finally, claim 203 has also been amended to recite a support member extending along the

therapy delivery portion of the tubular member *between the proximal and distal ends of the tubular member* outside the first lumen, the support member substantially fixed along the therapy delivery portion and *having a cross-section defining a width extending transversely relative to the first lumen and a height orthogonal to the width, the height being smaller than the width*, wherein the support member *biases* the target therapy portion for advancement through tissue in a straight configuration and deployment to a curved configuration within the breast for delivery of radiation to the target tissue region.

The Bonan et al. reference does not disclose, teach, or suggest a system including such a support member. Accordingly, similar to claim 191, claims 92, 107, 149, 181, 203 and their dependent claims should now define subject matter that is neither anticipated by nor otherwise obvious over the cited reference.

Applicants respectfully submit that the application is in condition for allowance in view of the forgoing amendments and remarks. Accordingly, reconsideration and allowance of the application is requested.

If there are any remaining issues that can be resolved by telephone, Applicants invite the Examiner to contact the undersigned at the number indicated below.

Respectfully submitted,
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